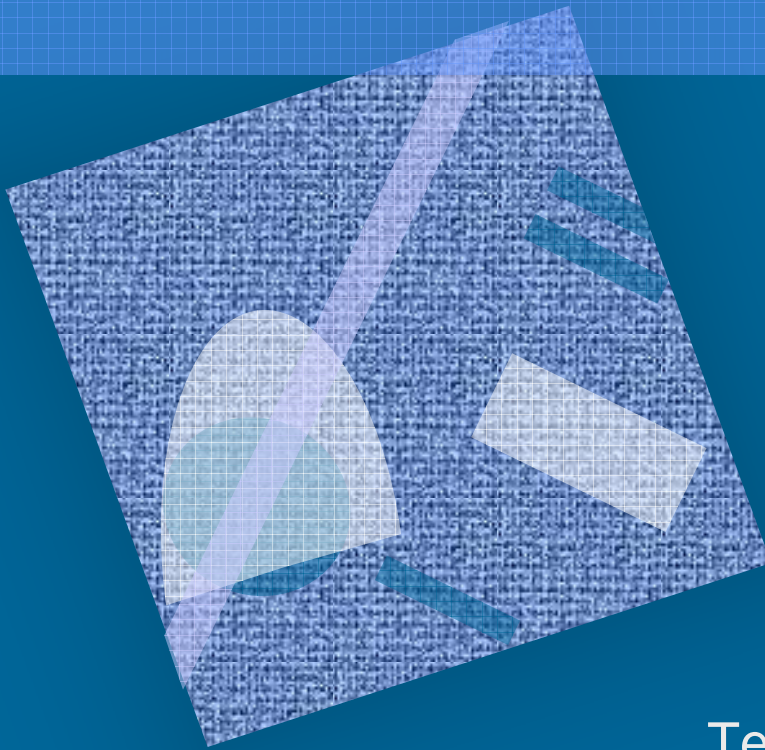


Changes in Tennessee's Sales & Use Tax Laws

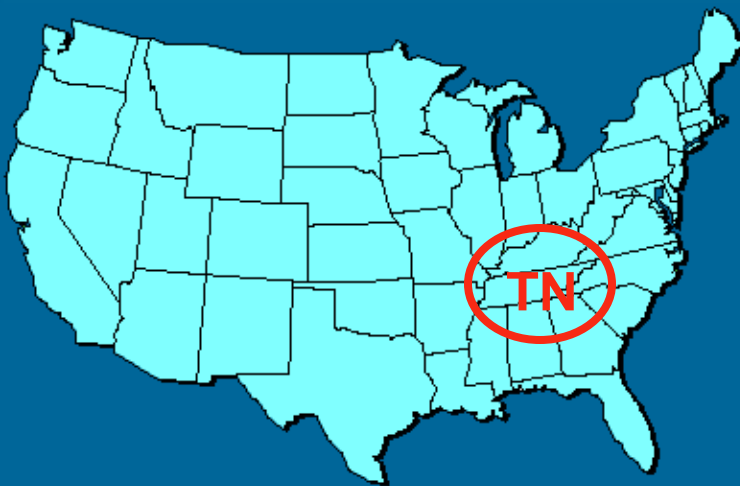


www.Tennessee.gov/revenue

Tennessee Department of Revenue
(615) 253-0752
(877) 250-2299

Tennessee Status

- Tennessee is an associate-member state of the Streamlined Sales and Use Tax Agreement.



- Sales and use tax changes in Tennessee
 - Some law changes were effective **January 1, 2008**, and others are scheduled to take effect **July 1, 2009**.
 - PC 602, Acts of 2007

(Available on the Department of Revenue's website)

New Definitions

Effective January 1, 2008

Sales price

Purchase price

Delivery charges

Direct mail

Lease or rental

Computer software

Prewritten computer
software

Drug

Over-the-counter Drug

Grooming and hygiene products

Prosthetic device

Durable medical equipment

Mobility-enhancing equipment

Prescription

Prepared food

Sales Price

Means total amount paid or charged for tangible personal property or services

Includes:

- Costs of property, materials, labor, services and transportation to the seller
- Expenses of the seller
- Taxes imposed on the seller



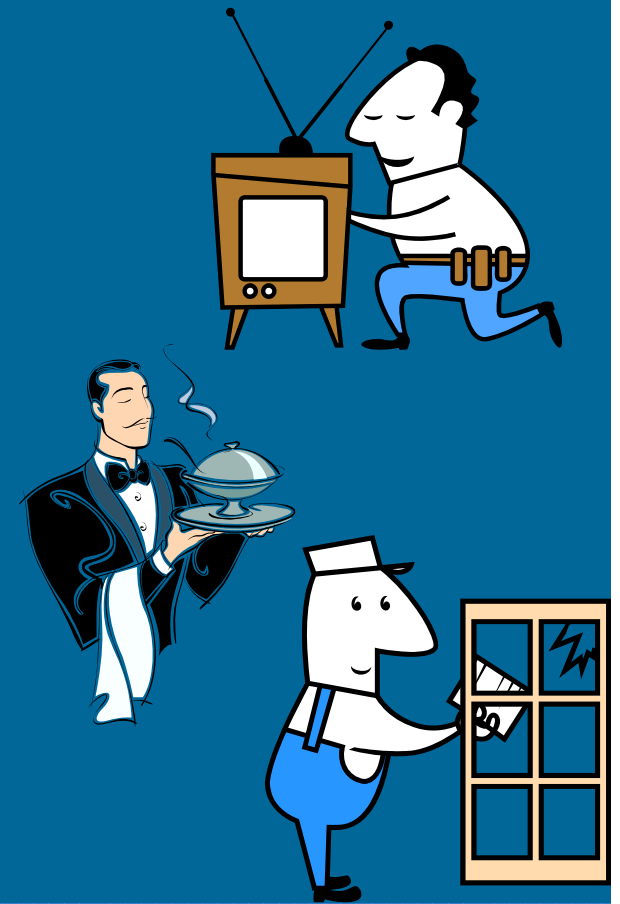
Sales Price

- Includes any charges by a seller for any services necessary to complete the sale
- Includes delivery charges except delivery charges for direct mail
- Includes installation charges

Sales Price

- Sales price continues to include:

1. Towing or service call charges that are provided in connection with repair services
2. Document preparation fees associated with the sale of an item
3. Mandatory payments for tips or gratuities with the sale of a meal



Price – Delivery Charges

Effective January 1, 2008, sales price includes delivery charges even if separately itemized.



- Delivery charges made by a seller for preparation and delivery of goods or services to a location designated by the purchaser.
- Charges include, but are not limited to: postage, transportation, freight, shipping, handling, crating, packing and preparation for mailing or delivery.





Delivery Charges

Important Notice 07-20

If property or service is...

- subject to tax, then the delivery charge made by the seller for delivering the property or service is subject to sales tax.
- not subject to tax, then the delivery charge made by the seller for delivering the property or service is not subject to tax.
- delivered by an independent third-party hired by the buyer and the delivery charges are made to the buyer, then delivery charges are not made by the seller and are not subject to tax.



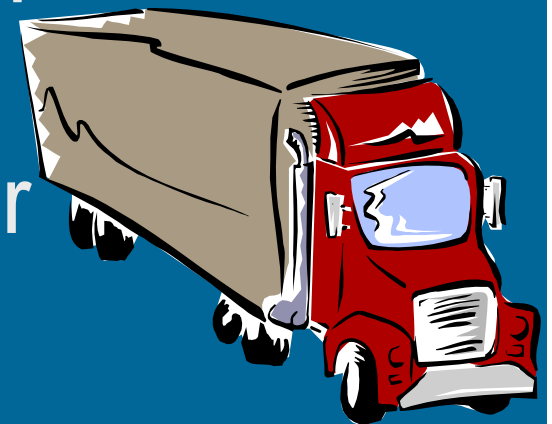
Delivery Charges for Direct Mail

- Effective January 1, 2008, sales price does not include delivery charges for direct mail such as postage or mailing services if separately itemized.
- Direct mail is printed material mailed or distributed to a mass audience and the recipients are not billed for the price of the printed materials.
- Examples of printed materials include:
 - advertising materials such as catalogs, magazines, fliers, handbills, and coupons
 - business correspondence such as account statements, invoices, proxy notices



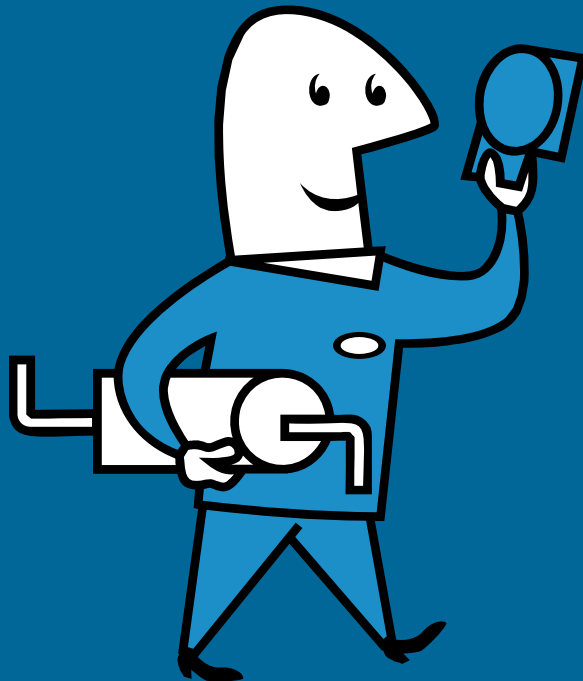
Stand-alone Shipping

- Transportation services provided by passenger or cargo transportation companies or messenger services are nontaxable services in Tennessee.



Price – Installation Charges

- Sales price includes installation charges



Still taxable if item
remains tangible
personal property

Sales or Purchase Price



- Sales price **does not** include:
 - Cash discount for payment within a period of time.
 - Interest and financing charges on purchases bought on installment plans.
 - Taxes imposed directly on purchasers and stated separately on invoice.
 - Trade-in credit.

Price - Discounts

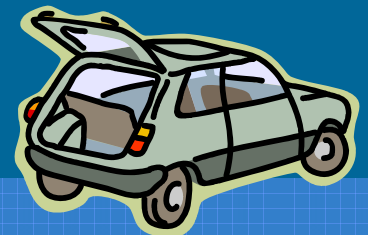
- Sales price includes consideration received by a seller from a third party on:

- Manufacturer coupons redeemable at any seller and discount given to purchaser
- Mail-in rebates not given by the seller
- Motor vehicle cash rebates



- Sales price does not include consideration received by a seller from a third party on:

- Volume discounts
- Cigarette buy-downs
- Advertising incentives
- Motor vehicle manufacturer's incentives





Leases or Rental

- Any transfer of possession or control of tangible personal property for a fixed or indeterminate term
- Does not include a transfer:
 - of title upon payment
 - of title with optional \$100 or 1% payment
 - along with an operator





Lease or Rental

Important Notice 07-15

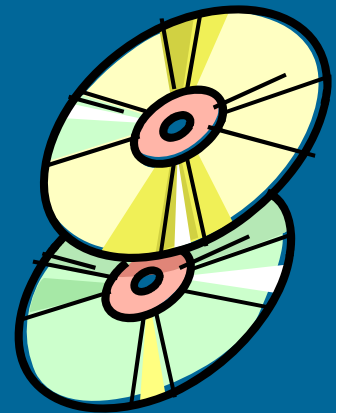
- Effective January 1, 2008, a transaction that requires the transfer of title of property upon completion of required periodic payments and an optional final payment that does not exceed the greater of \$100 or 1% of the total required payments is a sale and not a lease or rental.
- The sales price of the property is subject to tax, and the periodic payments are not subject to tax.
- This change does not apply to contracts or agreements in effect prior to January 1, 2008.

Computer Software Important Notice

Sales, leases, or licenses of computer software **continue** to be subject to tax.

Computer Software modifications and upgrades, installation, and warranty or service contracts **continue** to be subject to tax.

- Computer software includes customized and prewritten computer software.

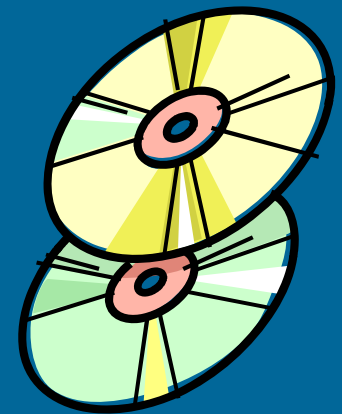




Prewritten Computer Software

Prewritten computer software means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser

- Prewritten computer software is tangible personal property and is subject to the single article local tax limitation.
- Customized software is subject to the full state and local tax.



Medical Definitions

- Drugs
- Over-the-counter drugs
- Grooming and hygiene products
- Prosthetic Devices
- Durable medical equipment
- Mobility enhancing equipment



Adopting new definitions for medical equipment has caused a **change in the taxability** of some items.



Drug Important Notice 07-18

A compound, substance or preparation, and component, other than food, dietary supplements or alcoholic beverages:

- Intended for diagnosis, cure mitigation, treatment, or prevention of disease
- Affects structure or function of body
- Prescriptions for human use **continue to be exempt from tax**





Over-the-counter Drug

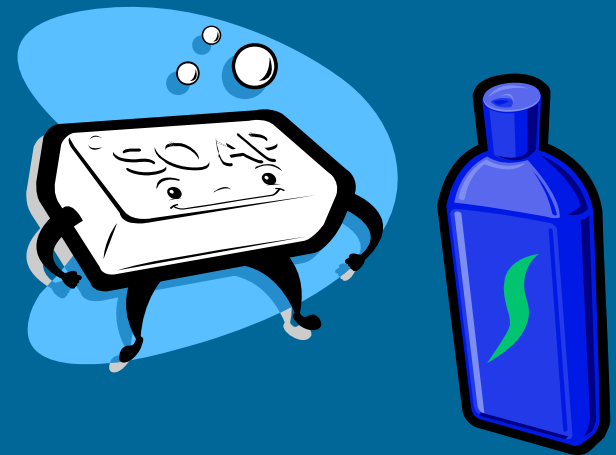
A drug that contains a label (drug facts panel or active ingredients statement) that identifies it as a drug

- Does not include grooming and hygiene products that can be purchased without a prescription
- Dispensed with a prescription for human use continues to be exempt from tax



Grooming and Hygiene Products

- Soaps
- Cleaning solutions
- Shampoos
- Toothpaste
- Mouthwash
- Antiperspirants
- Sun lotions and screens



Grooming and hygiene products that are not legend drugs continue to be subject to tax.



Prosthetic Devices

Important Notice 07-22

- Worn on or in the body
- Artificially replace missing portion of body
- Prevent or correct a physical deformity or malfunction
- Support a weak or deformed part of the body
- Include repair and replacement parts

Effective January 1, 2008, the change for Tennessee is a prosthetic must be worn on or in the body.

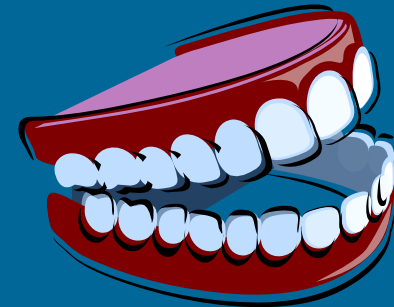
Prosthetic devices are exempt from tax regardless whether sold pursuant to a prescription.



Prosthetic Devices

Examples of prosthetic devices include:

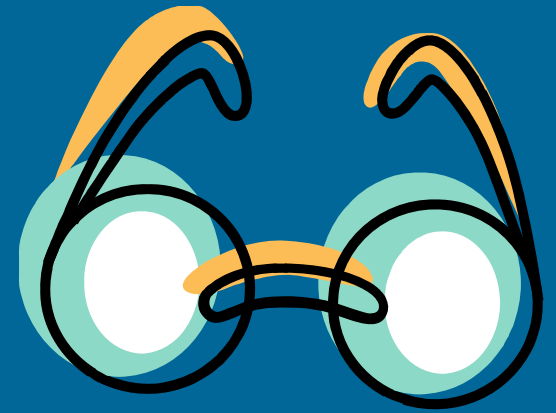
- Artificial arms and legs
- Necessary items worn to wear an artificial limb
- Hearing aids
- Dental prosthesis
- Insulin pumps
- Ankle braces
- Molded orthopedic shoes
- Pacemakers
- Heart valves



A [Healthcare Product List](#) is available on the Web site.

Prosthetic Devices

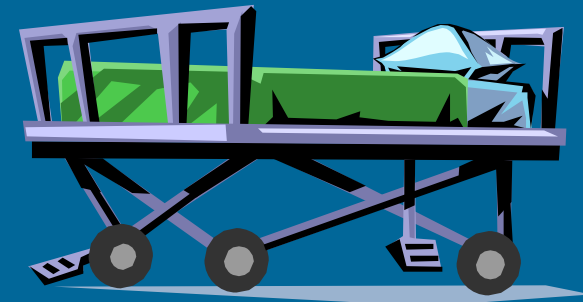
- Prosthetics **do not** include:
 - Corrective eyeglasses
 - Contact lenses
- Optometrists continue to pay tax on the purchase price of corrective eyeglasses and contact lenses, and charges to their patients are not subject to tax.



Durable Medical Equipment

Important Notice 07-22

- Equipment that can stand repeated use
- Primarily serves a medical purpose
- Not worn in or on the body
- Does not include disposable medical supplies
- Includes repair and replacement parts
 - Hospital beds – now DME
 - Ultrasound
 - Humidifier
 - IV poles
 - Blood pressure equipment
 - Blood glucose monitor
 - Nebulizer
 - X-ray

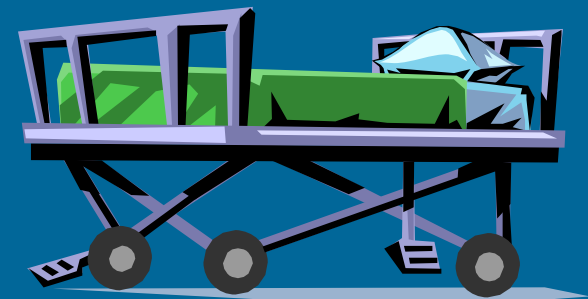


A Healthcare Product List is available on the Web site.



Durable Medical Equipment

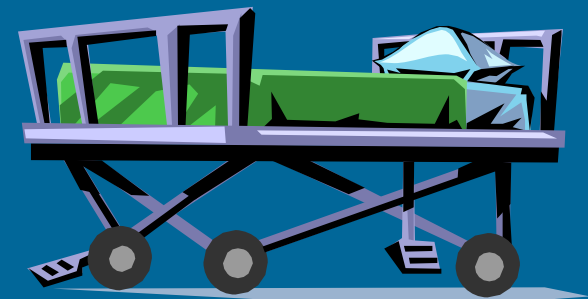
- Effective January 1, 2008, DME sold for home use and dispensed with a prescription is exempt from tax.
- DME purchased by for-profit hospitals, physicians, nursing facilities, and emergency treatment facilities continue to be subject to tax.





Durable Medical Equipment

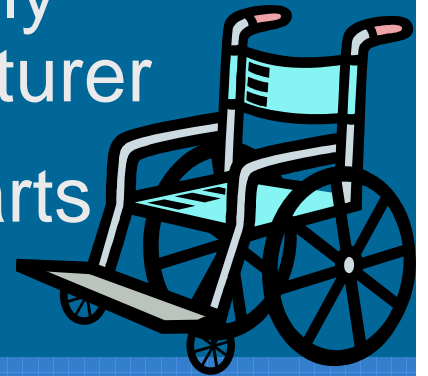
- Specific exemption from tax for any purchase of:
 - Oxygen delivery equipment and disposable medical supplies necessary to administer or deliver medical oxygen for human use
 - Kidney dialysis equipment for use in the treatment of humans
 - Enteral feeding systems for use in the treatment of humans



Mobility Enhancing Equipment

Important Notice 07-22

- Primarily used to increase ability to move from one place to another
- Appropriate for use in home or auto
- Not for persons with normal mobility
- Does not include motor vehicle or equipment on motor vehicle normally provided by motor vehicle manufacturer
- Includes repair and replacement parts





Mobility Enhancing Equipment

- Effective January 1, 2008, mobility enhancing equipment dispensed with a prescription is exempt from tax.
 - Wheelchairs
 - Canes
 - Crutches
 - Grab bars
 - Chair lifts
 - Walkers
 - Controls installed on motor vehicles
 - Motorized carts



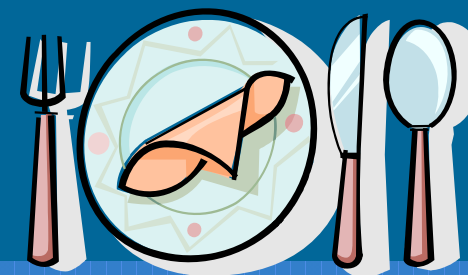
A [Healthcare Product List](#) is available on the Web site.



Prepared Food Important Notice

Effective January 1, 2008, amended definition for prepared food clarifies:

- Ingredients mixed or combined by seller that contain raw animal foods requiring cooking by the consumer are no longer prepared food and are taxed at the reduced tax rate on food.
- When eating utensils are provided by the seller with food and taxable at the full tax rate.



Other Changes



Food – 5.5% State Tax Rate
Caskets
Agricultural
Veterinarians
Residential Energy Fuel
Motor Vehicle – Armed Forces
Telecom – Internet Access

NEW!

Food and Food Ingredients Important Notice 07-14

Effective January 1, 2008, the state tax rate on sales of food and food ingredients is reduced from 6% to 5.5%

Food and food ingredients do not include:

- Prepared food
- Dietary supplements
- Candy
- Alcoholic beverages
- Tobacco



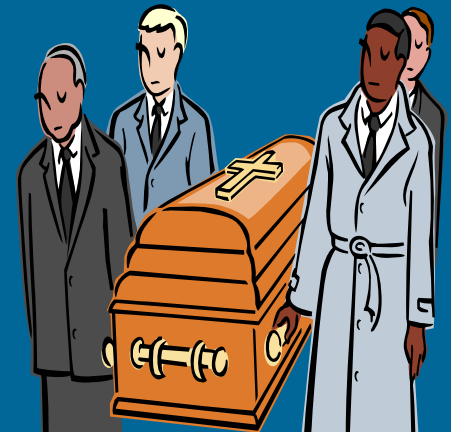
NEW!

Caskets and Burial Vaults

Important Notice 07-16

First \$500 of Price of a Casket or Burial Vault

- **BEFORE – Sales Tax**
 - First \$500 exempt from state and local tax
- **Effective January 1, 2008**
 - Total price subject to state and local tax



NEW!

Agricultural Exemption Important Notice 07-12

- Effective January 1, 2008, Farmers, timber harvesters and nursery operators must qualify for and receive an Agricultural Certificate of Exemption to make tax-exempt agricultural purchases.
- After December 31, 2007, the farmer and nursery operator affidavit **cannot** be used to make tax-exempt agricultural purchases.
- Certain agricultural exemptions have been expanded for those qualifying for the new Agricultural Certificate of Exemption.



NEW!

Qualifications for Agricultural Exemption

Must meet one or more of these criteria:

- Own or lease land where \$1,000 or more agricultural products were produced or sold
- In business of providing for-hire ag services
- Own land qualifying for taxation under T.C.A. § 67-5-1001 as “Greenbelt Land”
- Federal filer of Schedule F, or farm rental activity on Form 4835 or Schedule E
- Establish to commissioner that you are actively engaged in the business of raising, harvesting or producing agricultural commodities



Agricultural Exemption Farm Machinery

Farm Machinery Costing Less Than \$250

- BEFORE – Sales Tax
 - Subject to state and local tax
- Effective January 1, 2008
 - Exempt from sales and use tax



Agricultural Exemption Farm Machinery - ATVs

Effective January 1, 2008, qualified persons no longer required to pay tax on the purchase of ATVs and upon approval obtain a refund from the seller.

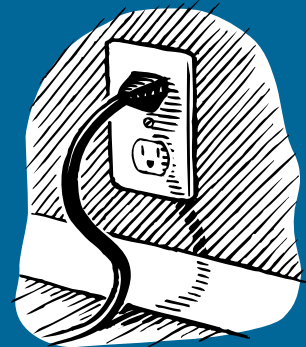
- ATVs treated the same as other machinery and equipment used directly and principally in production of agricultural and nursery products for sale and consumption off the premises.



Agricultural Exemption Electricity and Liquefied Gas

Electricity, natural gas, liquefied gas, coal, wood, wood products, wood by-products and fuel oil used as energy fuel

- BEFORE – Sales Tax
 - Taxed at 1.5% state rate and no local tax
- Effective January 1, 2008
 - Exempt from sales and use tax



Agricultural Exemption Dyed Diesel Fuel

- Gasoline and diesel fuel used for agricultural purposes purchased by a qualified person continue to be exempt from sales and use tax.
- Agricultural purpose includes cutting and harvesting trees.
- Effective January 1, 2008, dyed diesel fuel used in vehicles and logging equipment (not operated on public highways) used to harvest timber is exempt.



Agricultural Exemption Tax Responsibility

Farmers/Nurserymen

- Must use machinery for ag purposes
- Supplies must be used to produce ag or horticulture products
- Cannot allow other people to use exemption certificate

Sellers/Vendors

- Must have copy of certificate or card on file
- Billings must have name, address, and product descriptions

Veterinarians

Important Notice 08-01

- Veterinarian purchases of livestock drugs and instruments used to administer livestock drugs **continue** to be tax exempt.
- Veterinarians must provide a completed copy of the newly adopted **Streamlined Sales Tax Certificate of Exemption** to sellers to purchase the livestock drugs and instruments tax free.



Residential Energy Fuel Important Notice 07-17

- Energy fuel delivered to the home for residential use **continues** to be exempt.
- Energy fuel sold over the counter at the location of the seller is subject to state tax except:
 - Propane sold for residential use in a container of 100 lbs. or more is exempt, and
 - Fuels, including kerosene, dispensed self-service through metered pumps are not sold over the counter. Such sales for residential use continue to be exempt.

Documentation is **required** for residential use exemption.

Armed Forces Members Important Notice 07-07

Effective June 28, 2007, statute amended to expand eligibility for members of Armed Forces to make tax-exempt purchases of motor vehicles

Motor Vehicles Sold to Armed Forces Members

- Eligible purchasers who are engaged in **active full-time military service stationed in Tennessee**:
 - Army, Navy, Air Force, Marine Corps, Coast Guard
 - Tennessee National Guard who participate AGR
 - Reserve members of Army, Navy, Air Force, Marine Corps, Coast Guard who participate AGR(Stationed in Tennessee includes Fort Campbell, Kentucky)
- Eligible purchasers who are called into **active duty and stationed in a combat zone**:
 - Tennessee National Guard
 - Reserve members of Army, Navy, Air Force, Marine Corps, Coast Guard(Exemption period expires **90 days** after date of release from combat zone)

Motor Vehicles Sold to Armed Forces Members

- Vehicles that qualify for exemption include:
 - Motor vehicles defined in T.C.A. § 55-1-103(3)
 - Motor vehicles titled and registered in Tennessee under Title 55 in the name of qualifying individual or jointly with spouse or lineal relative
 - Off highway motor vehicles defined in T.C.A. § 55-1-101(c)
 - Mobile homes and house trailers
- Vehicles that **do not** qualify for exemption include:
 - Leased or rented motor vehicles
 - Vehicles that are not defined as motor vehicles (trailers and semi-trailers)
 - Motor vehicles not registered under Title 55 (farm tractor)
 - Manufactured homes

Telecom – Internet Access

Important Notice 07-21

Effective November 1, 2005,
telecommunication services ...

- purchased or used by an ISP to provide Internet access are exempt from tax.
- sold by an ISP to provide Internet access are exempt from tax.

Taxpayers may file claims for refunds for sales taxes billed on or after November 1, 2005, once collected taxes have been refunded to customers.

Telecom. – Internet Access

- Telecommunication services not used by an ISP to provide Internet access continue to be subject to tax. Examples include:
 - Telephone Service
 - Cellular Service
 - Paging Service
 - Facsimile Service
- Voice over Internet protocol (VOIP) continues to be subject to tax.

Questions

